

REMARKS

The non-final Office Action dated June 5, 2009 has been received and its contents carefully noted. Claims 46-96 remain pending in the application. Independent claims 46, 63, and 80 have been amended to clarify how the application is patentable over the newly cited prior art. Claims 63 and 80 have also been amended to clarify why they claim patentable subject matter. In view of the amendments above and the following remarks, reconsideration of this application is now respectfully requested.

Claim Rejections under 35 U.S.C. § 101

The Examiner rejects claims 63-79 and 80-96 under 35 U.S.C. § 101 as not being statutory subject matter. Claims 63 and 80 have been amended so as to better reflect why they (as well claims 64-79 and 81-96 which depend upon them) represent statutory subject matter.

Claim 63 has been amended, in accordance with the Examiner's rationale for the rejection, to reflect that the system includes and uses a computer processor, which must represent a minimum hardware component. This does not represent new matter because the system embodiments of the invention are characterized in the Detailed Description section (see page 9, lines 20-30) of the disclosure as running on computer systems, and computer systems must have a processor to be a functioning computer. The claim has been amended repeatedly throughout the claim to emphasize the role of a computer processor in the claim.

Claim 80 has been amended, in accordance with the Examiner's rationale for the rejection, to reflect that the invention involves storage on computer readable media. This does not represent new matter because the Detailed Description characterizes the embodiment as being stored in a database or file system, which must ultimately be stored on computer readable media. Given that claim 80 claims a "storage device", such device must be hardware as a device must refer to hardware rather than software. Furthermore, in order to have the characteristic that the information is "recorded thereon", as included by amendment, the storage device must be hardware. An example of this is the advertising database, which is described in page 9, lines 20-30. It refers to a conventional storage system, and the claim language of a "storage device" limits the scope of the claim to hardware.

Therefore, Applicant submits that claims 63-96 should be considered patentable subject matter.

Claim Rejections under 35 U.S.C. § 103

Claims 46, 49-52, 54, 55, 59-63, 66-69, 71, 72, 76-80, 83-86, 88, 89, and 93-96 are now rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. App. Pub. No. 2002/0036654 to Evans et al. (Evans) in further view of Adcycle (“Adcycle Support: Getting Started”, published as early as 2/12/2002, pgs. 1-2); Claims 47-48, 56, 64-65, 73, 81-82, and 90 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans in further view of Adcycle (“Adcycle Support: Getting Started”, published as early as 2/12/2002, pgs. 1-2) and in further view of U.S. Pat. App. No. 2002/0147645 to Alao et al. Claims 57, 74, and 91 remain rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans, in further view of Adcycle (“Adcycle Support: Getting Started”, published as early as 2/12/2002, pgs. 1-2) and in further view of U.S. Pat. App. No. 2003/0191693 to Aphek. Claims 53, 58, 70, 75, 87, and 92 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans, in further view of Adcycle (“Adcycle Support: Getting Started”, published as early as 2/12/2002, pgs. 1-2), in further view of Larson (US Pat. App. No 20020188635).

The Examiner accepted the 1.131 affidavit as a means to overcome the Yasnovsky reference, and used a new reference to reject claims 46, 63, 80, and the claims dependent upon them. The Examiner has applied art from AdCycle.com that allegedly renders obvious the feature of rotating ads. However, the claims have been amended to expressly recite storing aggregate creative forms which have been assembled. There is support for this in the specification p. 12, lines 19-30. This section of the specification supports the proposition that the subcreatives are assembled before they are stored. Subsequent to the storage of assembled aggregate creative forms, the forms are retrieved and used. Such an approach has many advantages. Given that it may be computationally intensive to generate ad layouts, by pre-generating and storing them, the ad system creates a setup where potential uses and configurations of the ads can be anticipating and stored in assembled form, so that it is merely necessary to access the finished ads rather than requiring on-the-fly ad generations. This is an important innovation which the embodiments contribute to the field, as the prior art relies on having templates without instantiating them in advance.

The prior art that the Examiner had previously referred to (from Evans) was as follows. "Paragraph 0091 discloses the user accounts service that provides access to a memory storage device that the user may store data. Thus, a user using an Internet connection may store product references, templates and other custom information such as the

user's files, and data. In addition, the final advertisements may stored on emails or websites. (Paragraph 0052).

This is different from the claimed invention as recited in the amended claims. To the extent that Evans stores things, the things that are stored within Evans' advertising system are "product references, templates and other custom information". By contrast, the final advertisements are stored on emails or websites, which are *external* to the advertising system, which is contrary to Applicant's amended claims. Thus, Evans does not teach or suggest the claimed invention. Applicant submits that none of the other pieces of prior art that Examiner has advanced discloses this feature of the embodiments either. Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) rejections in light of this amendment which has rendered them moot.

Conclusion

In view of the foregoing remarks, these claims, as amended, represent patentable subject matter. The amendment and the accompanying remarks are believed to have overcome the Examiner's rejection of claims 46, 63 and 80 under 35 U.S.C. § 103(a). All of the dependent claims, being dependent on at least one of the independent claims should be allowable for at least this reason, as well as for their uniquely distinguishing features. Accordingly, the claims are believed to be allowable.

In light of the amendment to the specification and the remarks provided hereinabove, Applicants respectfully submit that the present application is now in condition for allowance. However, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with Applicants' representative, then the Examiner is invited to contact the undersigned by telephone (at 202-585-8314) in order that further prosecution of this application can thereby be expedited.

Respectfully submitted,

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